Provisions.

Sec. 4. The conveyance authorized by section 1 shall provide for all of the following:

(a) The property shall be used exclusively for public purposes and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the use described in subdivision (a) or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property. If the state reenters and repossesses the property, the state shall not be liable for reimbursing any party for any improvements on the property.

Appraisal.

Sec. 5. The fair market value of the property described in section 2 shall be determined by an appraisal commissioned by the department of management and budget and prepared by an independent professional appraiser.

Offer for sale on open market; fair market value.

Sec. 6. If the properties described in section 1 or 2 are not sold to the Grand Ledge school district within 1 calendar year after the effective date of this act, the director of the department of management and budget may offer the property for sale on the open market for not less than fair market value as determined by an appraisal prepared by an independent professional fee appraiser.

Sale of property; conduct; notice.

Sec. 7. (1) If the property described in section 1 or 2 is offered on the open market at not less than fair market value in accordance with section 6, the sale shall be conducted so as to realize the highest and best price and/or value for the state as determined by the director of the department of management and budget. The sale shall be done in an open manner that uses 1 or more of the following:

(a) A competitive sealed bid.

(b) A public auction.

(c) Broker services.

(2) A notice of a sealed bid, a public auction, or use of broker services under subsection (1) shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The notice shall describe the general location of the property and the date, time, and place of the sale.

Quitclaim deed.

Sec. 8. Each conveyance authorized by this act shall be by quitclaim deed designed or otherwise approved by the attorney general and shall not reserve to the state any gas, oil, or mineral rights found on, within, or under the conveyed property, but shall provide for the exercise of the state's ongoing property interests in and regulatory jurisdiction over any historic artifacts and antiquities subsequently found on the site.

Lease or rental agreement.

Sec. 9. The state forgives any rent and interest that might otherwise be due from the Grand Ledge school district's use and occupancy of the state's properties described in sections 1 and 2 prior to closing, if the use and occupancy is otherwise governed by a formal lease or rental agreement binding the parties to commonly accepted norms of leasing state property and that affords the state adequate liability coverage under the lessee's own insurance policy or policies. The lease or rental agreement shall be designed and interpreted by the department of management and budget in consultation with the attorney general.

Reimbursement for administrative costs; disposition of revenue.

Sec. 10. In addition to the sale revenue provided in this act, the department of management and budget may also charge the buyer for reimbursement of all administrative costs associated with the department's implementation of this act, including, but not limited to, the costs of appraising and surveying the property and those associated with brokering and managing the sale of the property. Reimbursement for those administrative costs shall be deposited with and credited to the department of management and budget. All other revenue received under this act shall be deposited in the state treasury and credited to the general fund.

Repeal of acts.

Sec. 11. The following acts are repealed:

(a) 1973 PA 194.

(b) 1980 PA 39.

(c) 1981 PA 179.

This act is ordered to take immediate effect.
Approved July 21, 2005.
Filed with Secretary of State July 22, 2005.

No. 100

(SB 136)

AN ACT to prohibit the issuance or manufacture of false academic credentials; and to provide remedies.

The People of the State of Michigan enact:

390.1601 Short title.

Sec. 1. This act shall be known and may be cited as the "authentic credentials in education act".

390.1602 Definitions.

Sec. 2. As used in this act:

(a) "Academic credential" means a degree or a diploma, transcript, educational or completion certificate, or similar document that indicates completion of a program of study or instruction or completion of 1 or more courses at an institution of higher education or the grant of an associate, bachelor, master, or doctoral degree.

(b) "False academic credential" means an academic credential issued or manufactured by a person that is not a qualified institution.

(c) "Qualified institution" means any of the following:

(*i*) An institution of higher education, as that term is defined in 20 USC 1001, located in the United States.

(*ii*) Any other institution of higher education authorized to do business in this state.

390.1603 False academic credential; issuance or manufacture prohibited.

Sec. 3. A person shall not knowingly issue or manufacture a false academic credential in this state.

390.1604 False academic credential; use prohibited.

Sec. 4. (1) An individual shall not knowingly use a false academic credential to obtain employment; to obtain a promotion or higher compensation in employment; to obtain admission to a qualified institution; or in connection with any loan, business, trade, profession, or occupation.

(2) An individual who does not have an academic credential shall not knowingly use or claim to have that academic credential to obtain employment or a promotion or higher compensation in employment; to obtain admission to a qualified institution; or in connection with any loan, business, trade, profession, or occupation.

390.1605 Violation; civil action; damages.

Sec. 5. A person damaged by a violation of this act may bring a civil action and may recover costs, reasonable attorney fees, and the greater of either the person's actual damages or $100,000.00.

This act is ordered to take immediate effect.
Approved July 21, 2005.
Filed with Secretary of State July 22, 2005.

[No. 101]

(SB 482)

AN ACT to amend 1996 PA 381, entitled "An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing," by amending sections 2, 4, 13, and 15 (MCL 125.2652, 125.2654, 125.2663, and 125.2665), section 2 as amended by 2003 PA 277, section 4 as amended by 2000 PA 145, section 13 as amended by 2003 PA 259, and section 15 as amended by 2003 PA 283.

The People of the State of Michigan enact:

125.2652 Definitions.

Sec. 2. As used in this act:

(a) "Additional response activities" means response activities identified as part of a brownfield plan that are in addition to baseline environmental assessment activities and due care activities for an eligible property.

(b) "Authority" means a brownfield redevelopment authority created under this act.

(c) "Baseline environmental assessment" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) "Baseline environmental assessment activities" means those response activities identified as part of a brownfield plan that are necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan.

(e) "Blighted" means property that meets any of the following criteria:

(*i*) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(*iii*) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(*vi*) Is property owned or under the control of a land bank fast track authority under the land bank fast track act, whether or not located within a qualified local governmental unit. Property included within a brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(f) "Board" means the governing body of an authority.

(g) "Brownfield plan" means a plan that meets the requirements of section 13 and is adopted under section 14.

(h) "Captured taxable value" means the amount in 1 year by which the current taxable value of an eligible property subject to a brownfield plan, including the taxable value or assessed value, as appropriate, of the property for which specific taxes are paid in lieu of property taxes, exceeds the initial taxable value of that eligible property. The state tax commission shall prescribe the method for calculating captured taxable value.

(i) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.

(j) "Department" means the department of environmental quality.

(k) "Due care activities" means those response activities identified as part of a brownfield plan that are necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(*l*) "Eligible activities" or "eligible activity" does not include activities related to multisource commercial hazardous waste disposal wells as that term is defined in section 62506a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.62506a, but means 1 or more of the following:

(*i*) Baseline environmental assessment activities.

(*ii*) Due care activities.

(*iii*) Additional response activities.

(*iv*) For eligible activities on eligible property that was used or is currently used for commercial, industrial, or residential purposes that is in a qualified local governmental unit, or that is owned or under the control of a land bank fast track authority, and is a facility, functionally obsolete, or blighted, and except for purposes of section 38d of the single business tax act, 1975 PA 228, MCL 208.38d, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(E) Assistance to a land bank fast track authority in clearing or quieting title to, or selling or otherwise conveying, property owned or under the control of a land bank fast track authority.

(*v*) Relocation of public buildings or operations for economic development purposes with prior approval of the Michigan economic development authority.

(*vi*) For eligible activities on eligible property that is a qualified facility that is not located in a qualified local governmental unit and that is a facility, functionally obsolete, or blighted, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(m) "Eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes that is either in a qualified local governmental unit and is a facility, functionally obsolete, or blighted or is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property or tax reverted property owned or under the control of a land bank fast track authority. Eligible property includes, to the extent included in the brownfield plan, personal property located on the property. Eligible property does not

include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(n) "Facility" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(o) "Fiscal year" means the fiscal year of the authority.

(p) "Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

(q) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(r) "Infrastructure improvements" means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(s) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax.

(t) "Land bank fast track authority" means an authority created under the land bank fast track act.

(u) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(v) "Municipality" means all of the following:

(*i*) A city.

(*ii*) A village.

(*iii*) A township in those areas of the township that are outside of a village.

(*iv*) A township in those areas of the township that are in a village upon the concurrence by resolution of the village in which the zone would be located.

(*v*) A county.

(w) "Owned or under the control of" means that a land bank fast track authority has 1 or more of the following:

(*i*) An ownership interest in the property.

(*ii*) A tax lien on the property.

(*iii*) A tax deed to the property.

(*iv*) A contract with this state or a political subdivision of this state to enforce a lien on the property.

(*v*) A right to collect delinquent taxes, penalties, or interest on the property.

(*vi*) The ability to exercise its authority over the property.

(x) "Qualified facility" means a landfill facility area of 140 or more contiguous acres that is located in a city and that contains a landfill, a material recycling facility, and an asphalt plant that are no longer in operation.

(y) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(z) "Qualified taxpayer" means that term as defined in sections 38d and 38g of the single business tax act, 1975 PA 228, MCL 208.38d and 208.38g.

(aa) "Remedial action plan" means a plan that meets both of the following requirements:

(*i*) Is a remedial action plan as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*ii*) Describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(bb) "Response activity" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(cc) "Specific taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786; or that portion of the tax levied under the tax reverted property clean title act that is not required to be distributed to a land bank fast track authority.

(dd) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

(ee) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(ff) "Taxes levied for school operating purposes" means all of the following:

(*i*) The taxes levied by a local school district for operating purposes.

(*ii*) The taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*iii*) That portion of specific taxes attributable to taxes described under subparagraphs (*i*) and (*ii*).

(gg) "Work plan" means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(hh) "Zone" means, for an authority established before June 6, 2000, a brownfield redevelopment zone designated under this act.

125.2654 Resolution by governing body; adoption; notice; public hearing; proceedings establishing authority; presumption of validity; exercise as essential governmental function; implementation or modification of plan.

Sec. 4. (1) A governing body may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. The notice shall state the date, time, and place of the hearing. At that hearing, a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture under a brownfield plan, or property owner of the municipality has the right to be heard in regard to the establishment of the authority.

(3) Not more than 30 days after the public hearing, if the governing body intends to proceed with the establishment of the authority, the governing body shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority. The adoption of the resolution is subject to all applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption.

(4) The proceedings establishing an authority shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after the filing of the resolution with the secretary of state.

(5) The exercise by an authority of the powers conferred by this act shall be considered to be an essential governmental function and benefit to, and a legitimate public purpose of, the state, the authority, and the municipality or units.

(6) If the board implements or modifies a brownfield plan that contains a qualified facility, the governing body shall mail notice of that implementation or modification to each taxing jurisdiction that levies ad valorem property taxes in the municipality. Not more than 60 days after receipt of that notice, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality in which the qualified facility is located. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

125.2663 Brownfield plan; provisions.

Sec. 13. (1) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. Except as otherwise authorized by this act, if more than 1 parcel of eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each parcel of eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a listing of all eligible activities that may be conducted for 1 or more of the eligible properties subject to the plan.

(b) A brief summary of the eligible activities that are proposed for each eligible property or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a brief summary of eligible activities conducted for 1 or more of the eligible properties subject to the plan.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from each parcel of eligible property, or from all eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, and in the aggregate. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(cc), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The duration of the brownfield plan, which shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years.

(g) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(h) A legal description of each parcel of eligible property to which the plan applies, a map showing the location and dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in

existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

(*l*) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) A description of proposed use of the local site remediation revolving fund.

(n) Other material that the authority or governing body considers pertinent.

(2) The percentage of all taxes levied on a parcel of eligible property for school operating expenses that is captured and used under a brownfield plan and all tax increment finance plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, shall not be greater than the combination of the plans' percentage capture and use of all local taxes levied for purposes other than for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local unit of government. This subsection shall apply only when taxes levied for school operating purposes are subject to capture under section 15.

(3) Except as provided in this subsection and subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under section 15. For property owned or under the control of a land bank fast track authority, tax increment revenues related to a brownfield plan may be used for eligible activities attributable to any eligible property owned or under the control of the land bank fast track authority, the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities, the reasonable costs of preparing a work plan or remedial action plan, and the actual cost of the review of the work plan or remedial action plan under section 15. Tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used for eligible activities described in section 2(*l*)(*iv*)(E).

(4) Except as provided in subsection (5), a brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs permitted to be funded with tax increment revenues under this act.

(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of paying the costs permitted under subsection (3), or for not

more than 5 years after the time that capture is required for the purpose of paying the costs permitted under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues attributable to taxes levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues attributable to taxes levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess tax increment revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan economic growth authority shall not be captured for deposit in the local site remediation revolving fund.

(6) An authority shall not expend tax increment revenues to acquire or prepare eligible property, unless the acquisition or preparation is an eligible activity.

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(8) Costs of a response activity paid with tax increment revenues that are captured pursuant to subsection (3) may be recovered from a person who is liable for the costs of eligible activities at an eligible property. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 120 days' notice. This state or an authority that recovers costs under this subsection shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(*i*) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(*ii*) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(*iii*) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (*i*) and (*ii*) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14.

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. Notice of the time and place of the

hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the brownfield plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

(13) Not less than 20 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan.

(14) The authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the captured taxable value of an eligible property. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(15) Except as provided by subsection (18), if a brownfield plan includes the capture of taxes levied for school operating purposes or the use of tax increment revenues related to a brownfield plan for the cost of eligible activities attributable to more than 1 eligible property that is adjacent and contiguous to all other eligible properties covered by the development agreement, whether or not the captured taxes are levied for school operating purposes, approval of a work plan by the Michigan economic growth authority before January 1, 2008 to use school operating taxes and a development agreement between the municipality and an owner or developer of eligible property are required if the revenues will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, or site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) The limitations of section 15(1) upon use of tax increment revenues by an authority shall not apply to the following costs and expenses:

(a) In each fiscal year of the authority, $75,000.00 for the following purposes for tax increment revenues attributable to local taxes:

(*i*) Reasonable and actual administrative and operating expenses of the authority.

(*ii*) Baseline environmental assessments, due care activities, and additional response activities related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan.

(b) Reasonable costs of preparing a work plan or remedial action plan or the cost of the review of a work plan for which tax increment revenues may be used under section 13(3).

(17) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act and may enter into agreements related to those reimbursements. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(18) If a brownfield plan includes the capture of taxes levied for school operating purposes, approval of a work plan by the Michigan economic growth authority in the manner required under section 15(14) to (16) is required in order to use tax increment revenues attributable to taxes levied for school operating purposes for purposes of eligible activities described in section 2(*l*)(*iv*)(E) for 1 or more parcels of eligible property. The work plan to be submitted to the Michigan economic growth authority under this subsection shall be in a form prescribed by the Michigan economic growth authority. The eligible activities to be conducted and described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

125.2665 Prohibited conduct; work plan or remedial action plan; documents to be submitted for approval; factors to be considered in plan review; written request pertaining to baseline environmental assessment activities or due care activities; additional response activities; reimbursement of costs to review work plan or remedial action plan; report; distribution of remaining funds; use of school operating taxes.

Sec. 15. (1) An authority shall not do any of the following:

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan approved by the department after July 24, 1996 and before January 1, 2008.

(b) For eligible activities not described in section 13(15), use funds from a local site remediation revolving fund that are derived from taxes levied for school operating purposes unless the eligible activities to be conducted are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan that has been approved by the department after July 24, 1996.

(c) Use funds from a local site remediation revolving fund created pursuant to section 8 that are derived from taxes levied for school operating purposes for the eligible activities described in section 13(15) unless the eligible activities to be conducted are consistent with a work plan approved by the Michigan economic growth authority.

(d) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

(e) Use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party liable under section 20126 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126, except that a municipality that established the authority, for taxes levied after 2004, may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.

(f) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under this section.

(2) To seek department approval of a work plan under subsection (1)(a) or (b) or remedial action plan, the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and what is known about environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan or remedial action plan, or part of a work plan or remedial action plan, for each eligible activity to be undertaken.

(3) Upon receipt of a request for approval of a work plan or remedial action plan under subsection (2) that pertains to baseline environmental assessment activities or due care activities, or both, or a portion of a work plan or remedial action plan that pertains to only baseline environmental assessment activities or due care activities, or both, the department shall provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan or remedial action plan, including, but not limited to, individual activities to be added or deleted from the work plan or remedial action plan and revision of costs.

(c) If the work plan or remedial action plan lacks sufficient information for the department to respond under subdivision (a) or (b), a letter stating with specificity the necessary additions or changes to the work plan or remedial action plan to be submitted before a plan will be considered by the department.

(4) In its review of a work plan or remedial action plan, the department shall consider all of the following:

(a) Whether the individual activities included in the work plan or remedial action plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan or remedial action plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, the authority may proceed with the baseline environmental assessment activities or due care activities, or both, as outlined in the work plan or remedial action plan as submitted for approval. Except as provided in subsection (6), baseline environmental assessment activities or due care activities, or both, conducted pursuant to a work plan or remedial action plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1).

(6) The department may issue a written response to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan or remedial action plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan or remedial action plan initially submitted under subsection (5). In addition, at the option of the authority, these additional individual activities shall be considered part of the work plan or remedial action plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy the baseline environmental assessment or due care requirements, or both, of part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the baseline environmental assessment or due care activities, or both, to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(7) If the department issues a written response under subsection (6) to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, and if the department's written response modifies an individual activity proposed by the work plan or remedial action plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities included in the baseline environmental assessment or due care activities, or both, in accordance with the department's response in order for that portion of the work plan or remedial action plan to be considered approved for purposes of subsection (1), unless 1 or more of the following conditions apply:

(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.

(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(8) It shall be in the sole discretion of an authority to propose to undertake additional response activities at an eligible property under a brownfield plan. The department shall not

require a work plan or remedial action plan for either baseline environmental assessment activities or due care activities, or both, to include additional response activities.

(9) The department may reject the portion of a work plan or remedial action plan that includes additional response activities and may consider the level of risk reduction that will be accomplished by the additional response activities in determining whether to approve or reject the work plan or remedial action plan or a portion of a plan.

(10) The department's approval or rejection of a work plan under subsection (1)(a) or (b) or remedial action plan for additional response activities is final.

(11) The authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) or (b) or remedial action plan under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (2).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(13) To seek Michigan economic growth authority approval of a work plan under subsection (1)(c) or section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13(15) to be undertaken.

(g) A copy of the development agreement required under section 13(15), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(14) Upon receipt of a request for approval of a work plan, the Michigan economic growth authority shall provide 1 of the following written responses to the requesting authority within 65 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(15) In its review of a work plan under subsection (1)(c) or section 13(15), the Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

(h) The level and extent of contamination alleviated by or in connection with the eligible activities.

(i) The level of private sector contribution.

(j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(*l*) Whether the financial statements of the developer, landowner, or corporate entity indicate that the developer, landowner, or corporate entity is financially sound and that the project of the developer, landowner, or corporate entity that is included in the work plan is economically sound.

(m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(n) Any other criteria that the Michigan economic growth authority considers appropriate for the determination of eligibility or for approval of the work plan.

(16) If the Michigan economic growth authority fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.

(17) The Michigan economic growth authority's approval of a work plan under section 13(15) is final.

(18) The authority shall reimburse the Michigan economic growth authority for the actual cost incurred by the Michigan economic growth authority or a contractor of the Michigan economic growth authority to review a work plan under this section.

(19) The Michigan economic growth authority shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (13).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan approved by the department or the Michigan economic growth authority or for the payment of interest under section 13 and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.

(21) An authority shall not use taxes levied for school operating purposes captured from eligible property for eligible activities for a qualified facility.

This act is ordered to take immediate effect.
Approved July 21, 2005.
Filed with Secretary of State July 22, 2005.

[No. 102]

(SB 525)

AN ACT to amend 2003 PA 296, entitled "An act to promote investment in certain businesses; to promote economic development in this state; to provide for a Michigan early stage venture investment corporation; to prescribe the powers and duties of a Michigan early stage venture investment corporation; to prescribe the powers and duties of certain public officers and departments; to establish the Michigan early stage venture investment fund and other funds; to provide for tax credits and incentives; to authorize certain investments; to provide for the expiration of the fund; to provide or allow for appropriations; and to provide penalties and remedies," by amending sections 3, 5, 15, 17, 19, and 23 (MCL 125.2233, 125.2235, 125.2245, 125.2247, 125.2249, and 125.2253).

The People of the State of Michigan enact:

125.2233 Definitions.

Sec. 3. As used in this act:

(a) "Alternative energy technology" means that term as defined in section 2(d) of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(b) "Board" means the Michigan early stage venture investment corporation board of directors.

(c) "Conflict of interest" means a situation in which the private interest of a director, employee, or agent of the board may influence the judgment of the director, employee, or agent in the performance of his or her duties or responsibilities under this act. A conflict of interest includes, but is not limited to, the following:

(*i*) Any conduct that would lead a reasonable person, knowing all of the circumstances, to conclude that the director, employee, or agent of the board has an interest related to an action that the board is taking under this act.

(*ii*) Acceptance of compensation other than from the board for services rendered as part of the official duties as a director, employee, or agent of the board.

(*iii*) Participation in any business being transacted with or before the board in which the director, employee, or agent of the board or his or her spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, nephew, niece, first cousin, or second cousin or the spouse of any of the persons described in this subparagraph has a financial interest.

(d) "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, limited liability company interests, or any other security or rights that evidence ownership in a private business.

(e) "Fund" or "Michigan early stage venture investment fund" means the fund created in section 19.

(f) "High-technology activity" means that term as defined in section 3(g) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(g) "Holder" means a person that has a tax voucher certificate or the right to be issued a tax voucher certificate from the Michigan early stage venture investment corporation.

(h) "Investor" means an individual, firm, bank, financial institution, limited partnership, co-partnership, partnership, joint venture, association, corporation, receiver, estate, trust, or any other entity that invests in the fund.

(i) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If it is determined that the Michigan economic development corporation is unable to perform its duties under this act, those duties shall be exercised by the Michigan strategic fund.

(j) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(k) "Near-equity capital" means capital invested in unsecured, undersecured, or debt securities or subordinated or convertible loans.

(*l*) "Negotiated return on qualified investment" means the rate of return agreed upon for investments made by investors in the fund.

(m) "Qualified business" means a seed or early stage business that is domiciled in this state, that has its corporate headquarters in this state, or the majority of whose employees work a majority of their time at a site located in this state.

(n) "Qualified investment" means the amount of capital invested by an investor in the fund.

(o) "Seed or early stage business" means a business that is either of the following:

(*i*) A business that has not fully established commercial operations and may also be engaged in continued research and product development.

(*ii*) A business engaged in product, service, or technology development and initial manufacturing, marketing, or sales activities.

(p) "Venture capital company" means a corporation, partnership, limited liability company, or other legal entity the primary business activity of which is the investment of equity capital in businesses that focus on areas, including, but not limited to, alternative energy technology, high-technology activity, or health care.

125.2235 Incorporation as nonprofit corporation.

Sec. 5. (1) A Michigan early stage venture investment corporation is a nonprofit corporation incorporated under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that meets the registration requirements of this act.

(2) A Michigan early stage venture investment corporation shall be incorporated as a nonprofit corporation that has received, on or before August 1, 2005, a favorable determination from the internal revenue service that the corporation is exempt from taxation under section 501(c)(3) or 501(c)(4) of the internal revenue code. The department of treasury may allow up to 3, 30-day extensions of the date under this section for purposes of reviewing and approving an application for registration under section 11.

(3) Except as otherwise provided in this act to the contrary, a Michigan early stage venture investment corporation is subject to the laws of this state that are applicable to nonprofit corporations.

(4) A Michigan early stage venture investment corporation is a charitable and benevolent institution, and its funds, income, and property are exempt from taxation by this state or any political subdivision of this state.

(5) A corporation shall not act as a Michigan early stage venture investment corporation except as authorized under this act.

125.2245 Delegation of certain acts; fund manager as fiduciary; evaluation of business and industry for investment purposes.

Sec. 15. (1) Except as otherwise provided in this act, in the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, by law, or in its articles of incorporation, a Michigan early stage venture investment corporation may do or delegate any act consistent with this act and the purposes of the nonprofit corporation, including, but not limited to, the following:

(a) Enter into contracts and all necessary activities in the regular course of business of the Michigan early stage venture investment corporation.

(b) Charge reasonable fees for the implementation of this act and the ongoing operation of the Michigan early stage venture investment corporation.

(c) Perform acts or enter into financial or other transactions necessary to carry out its powers and duties under this act.

(d) Invest in venture capital funds through equity securities.

(e) Employ fund managers and other persons it considers necessary to implement this act.

(2) The fund manager shall exercise the duties of a fiduciary toward the corporation and shall discharge his or her duties with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under the same or similar circumstances in a like position.

(3) The fund manager shall solicit investors pursuant to section 17.

(4) The Michigan early stage venture investment corporation shall require the fund manager to develop procedures to evaluate types of business and industry for investment purposes and to set priorities as to which businesses are most likely to meet the desired outcomes of the investment plan established under section 19 and which businesses conduct activities that are consistent with the purposes of this act and of the fund. This evaluation shall include, but not be limited to, the location of the firm and the direct and indirect impact of the business on the economic development of this state.

125.2247 Agreements with investors.

Sec. 17. (1) To secure investment in the fund, the Michigan early stage venture investment corporation shall enter into agreements with investors.

(2) Each agreement shall contain all of the following:

(a) An established and agreed-upon investment amount and repayment schedule.

(b) A negotiated amount or negotiated return on qualified investment by the investor over the term of the agreement.

(c) A maximum amount of tax vouchers that the investor may use to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, a successor tax to the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the first year in which that tax voucher may be used to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, including any withholding tax imposed on the investor under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(3) The Michigan early stage venture investment corporation shall notify the department of treasury when agreements are entered into under this section and send a copy of each agreement to the department of treasury. After making the determination required under section 23(2), the department of treasury shall issue an approval letter to the investor that states that the investor is entitled to a tax voucher that is equal to the difference between the amount actually repaid and the amount set as the repayment due in the agreement entered into by the investor and the Michigan early stage venture investment corporation.

(4) The fund shall repay any amounts due from proceeds from the funds raised based on the agreements made under this section and from the proceeds of investments made by the fund.

(5) For tax years that begin after December 31, 2008, investors that have tax voucher certificates issued pursuant to section 23 may use the tax voucher to pay a liability owed by the investor under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, as provided in this act, up to an amount equal to the difference between the amount actually repaid and the amount set as the repayment due in the agreement entered into by the taxpayer and the Michigan early stage venture investment corporation. The Michigan early stage venture investment corporation shall notify the department of treasury when tax voucher certificates are issued under section 23(5).

(6) Repayment of a debt under this section may be restricted to specific funds or assets of the Michigan early stage venture investment corporation.

(7) The Michigan early stage venture investment corporation may purchase securities and may manage, transfer, or dispose of those securities.

(8) The Michigan early stage venture investment corporation and its directors are not broker-dealers, agents, investment advisors, or investment advisor representatives when carrying out their duties and responsibilities under this act.

125.2249 Michigan early stage venture investment fund; investment plan; criteria.

Sec. 19. (1) A Michigan early stage venture investment corporation shall create a Michigan early stage venture investment fund, which shall be a restricted fund.

(2) The fund manager shall establish an investment plan approved by the board for the investment of the money in the fund using the following criteria:

(a) Not more than 15% of the total capital and outstanding commitments of the fund shall be invested in any single venture capital company.

(b) The fund manager with the approval of the board shall undertake to invest the fund in such a way as to promote that at least $2.00 will be invested in qualified businesses for every $1.00 of principal for which tax vouchers may be used to pay a liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, a successor tax to the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(c) That investments facilitate the transfer of technologies from the state's various universities and research institutions.

(d) Any other professional portfolio management criteria that the fund manager and board consider appropriate.

(e) Priorities for investment in venture capital may be based on an evaluation, which shall consider the following criteria:

(*i*) The retention of those businesses which would be likely to leave this state absent the investment.

(*ii*) The revitalization and diversification of the economic base of this state.

(*iii*) Generating and retaining jobs and investment in this state.

(3) Consistent with the plan established under subsection (2), the fund manager shall select venture capital companies from among those venture capital companies that apply for money from the fund considering the following criteria:

(a) The venture capital company's probability of success in generating above-average returns through investing in qualified businesses.

(b) The venture capital company's probability of success in soliciting investments. The level of investment from the fund committed to each venture capital company shall not be more than 25% of the venture capital company's total capital under management.

(c) The venture capital company's probability of success as it relates to the investment plan criteria under subsection (2)(b).

(d) The venture capital company has a significant presence in this state as determined by the Michigan early stage venture investment corporation.

(e) The venture capital company will undertake to invest in qualified businesses, as determined at the point of initial investment, a percentage of invested capital equal to or greater than the percentage of invested capital that the venture capital company received from the fund.

(f) The venture capital company's consideration of minority owned businesses in its investment activities.

125.2253 Tax voucher certificates.

Sec. 23. (1) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, and the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the amount of the tax voucher or vouchers allowed to each investor.

(2) The Michigan early stage venture investment corporation shall determine which investors are eligible for tax vouchers under this section and submit proposed tax voucher certificates that meet the criteria under subsection (3) to the department of treasury for

approval. The department of treasury shall approve or deny proposed tax voucher certificates within 30 days after receipt of the proposed tax voucher certificates. If the department of treasury denies a proposed tax voucher certificate, the department of treasury shall notify the Michigan early stage venture investment corporation and the investor of the denial and the reason for the denial. If a proposed tax voucher certificate is denied under this subsection, the Michigan early stage venture investment corporation is not prohibited from subsequently submitting a proposed tax voucher certificate on behalf of that same investor. If the department of treasury does not approve or deny the proposed tax voucher certificates within 30 days, the proposed tax voucher certificates are considered approved as submitted. The approval by the department of treasury under this section may be a condition to the effectiveness of the agreement between the investor and the Michigan early stage investment corporation required under section 17(1).

(3) At the time permitted under subsection (5), the Michigan early stage venture investment corporation shall issue a tax voucher certificate approved under subsection (2) to each investor in the name of the investor that states all of the following:

(a) The taxpayer is an investor.

(b) The taxpayer's federal employer identification number or the number assigned to the taxpayer by the department of treasury for filing purposes under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145.

(c) The amount of the tax voucher that any taxpayer that uses the tax voucher may use to pay its tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(d) The tax years for which the tax voucher under subdivision (c) may be used and the maximum annual amount that may be used each tax year.

(e) The amount of the tax vouchers that may be used shall not exceed the tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, of the taxpayer that uses the tax voucher.

(f) The tax voucher may be transferred in whole or in part.

(g) If the amount of any tax voucher certificate exceeds the investor's tax liability under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the amount that exceeds the investor's tax liability may be retained and used to pay a future liability of the investor under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) The fund manager shall invest, budget, and plan scheduled payments and repayments so that no tax voucher is used in any tax year before tax years that begin after December 31, 2008.

(5) The Michigan early stage investment corporation shall issue tax voucher certificates under this section to an investor at the time that the Michigan early stage venture investment corporation determines that, for that investor, it is unable to pay the negotiated amount or the negotiated return on qualified investment of that investor on or before the date on which payment is due. The total of all tax voucher certificates issued under this section shall not exceed the maximum amount allowed under section 37e(2) of the single business tax act, 1975 PA 228, MCL 208.37e.

(6) Tax voucher certificates under this section shall not be issued until December 31, 2008.

(7) A tax voucher certificate issued under subsection (5), or the right to be issued and receive a tax voucher certificate from the Michigan early stage venture investment

corporation, may be transferred in whole or in part by a holder to another person if the holder notifies the department of treasury and the Michigan early stage venture investment corporation in writing of the transfer, the amount of the tax voucher certificate to be transferred, and the name and tax identification information provided for under subsection (3) of the proposed transferee. The tax voucher certificate transferred under this subsection shall be made on a form prescribed by the department of treasury. The holder shall send a copy of the completed transfer form to the department of treasury within 60 days after the date of the transfer.

(8) A transfer under this section is irrevocable. If the holder is transferring less than all of the tax voucher certificate to a transferee, the department of treasury may issue new tax voucher certificates to the holder and transferee representing the allocated values of the tax voucher certificates held by the holder and the transferee after the transfer.

(9) A holder of a tax voucher certificate shall attach a copy of the tax voucher certificate and, if applicable, a completed transfer form to its annual return for the tax toward which the tax voucher certificate is used by the holder. If the amount of any tax voucher certificate eligible to be used by a holder is in excess of the holder's tax liability under either the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the excess may be retained and used to pay any future single business tax or income tax liability of the holder.

This act is ordered to take immediate effect.
Approved July 21, 2005.
Filed with Secretary of State July 22, 2005.

[No. 103]

(SB 522)

AN ACT to amend 1925 PA 368, entitled "An act to prohibit obstructions and encroachments on public highways, to provide for the removal thereof, to prescribe the conditions under which telegraph, telephone, power, and other public utility companies, cable television companies and municipalities may enter upon, construct and maintain telegraph, telephone, power or cable television lines, pipe lines, wires, cables, poles, conduits, sewers and like structures upon, over, across or under public roads, bridges, streets and waters and to provide penalties for the violation of this act," by amending section 13 (MCL 247.183), as amended by 2002 PA 151.

The People of the State of Michigan enact:

247.183 Public utilities, cable television companies, and municipalities; construction and maintenance of structures; consent of governing body; construction and maintenance of utility lines and structures longitudinally within limited access highway rights-of-way; standards; charges; use of revenue; use of electronic devices within limited access and rights-of-way to provide travel-related information.

Sec. 13. (1) Except as otherwise provided under subsection (2), telegraph, telephone, power, and other public utility companies, cable television companies, and municipalities may enter upon, construct, and maintain telegraph, telephone, or power lines, pipe lines, wires, cables, poles, conduits, sewers or similar structures upon, over, across, or under any public road, bridge, street, or public place, including, longitudinally within limited access

highway rights-of-way, and across or under any of the waters in this state, with all necessary erections and fixtures for that purpose. A telegraph, telephone, power, and other public utility company, cable television company, and municipality, before any of this work is commenced, shall first obtain the consent of the governing body of the city, village, or township through or along which these lines and poles are to be constructed and maintained.

(2) A utility as defined in 23 CFR 645.105(m) may enter upon, construct, and maintain utility lines and structures, including pipe lines, longitudinally within limited access highway rights-of-way and under any public road, street, or other subsurface that intersects any limited access highway at a different grade, in accordance with standards approved by the state transportation commission and the Michigan public service commission that conform to governing federal laws and regulations and is not required to obtain the consent of the governing body of the city, village, or township as required under subsection (1). The standards shall require that the lines and structures be underground and be placed in a manner that will not increase highway maintenance costs for the state transportation department. The standards may provide for the imposition of a reasonable charge for longitudinal use of limited access highway rights-of-way. The imposition of a reasonable charge is a governmental function, offsetting a portion of the capital, maintenance, and permitting expense of the limited access highway, and is not a proprietary function. The charge shall be calculated to reflect a 1-time installation permit fee that shall not exceed $1,000.00 per mile of longitudinal use of limited access highway rights-of-way with a minimum fee of $5,000.00 per permit. If the 1-time installation permit fee does not cover the reasonable and actual costs to the department in issuing the permit, the department may assess the utility for the remaining balance. All revenue received under this subsection shall be used for capital and maintenance expenses incurred for limited access highways, including the cost of issuing the permit.

(3) A person engaged in the collection of traffic data or the provision of travel-related information or assistance may enter upon, construct, and maintain electronic devices and related structures within limited access and other highway rights-of-way in accordance with standards approved by the state transportation commission that conform to governing federal laws and regulations. The standards shall require that the devices and structures be placed in a manner that will not impede traffic and will not increase maintenance costs for the state transportation department. The state transportation department may enter into agreements to authorize the use of property acquired for or designated as a highway or acquired for or designated for ancillary purposes for the installation, operation, and maintenance of commercial or noncommercial electronic devices and related structures for the collection of traffic data or to assist in providing travel-related information or assistance to motorists who subscribe to travel-related services, the public, or the department. Any revenue generated by the agreements shall be deposited in the state trunk line fund. The department may accept facilities or in-kind services to be used for public purposes in lieu of, or in addition to, monetary compensation.

This act is ordered to take immediate effect.
Approved July 21, 2005.
Filed with Secretary of State July 22, 2005.

[No. 104]

(HB 4702)

AN ACT to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain

misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.673), as amended by 2003 PA 192.

The People of the State of Michigan enact:

722.673 Definitions; S to V.

Sec. 3. As used in this act:

(a) "Sexually explicit matter" means sexually explicit visual material, sexually explicit verbal material, or sexually explicit performance.

(b) "Sexually explicit performance" means a motion picture, video game, exhibition, show, representation, or other presentation that, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(c) "Sexually explicit verbal material" means a book, pamphlet, magazine, printed matter reproduced in any manner, or sound recording that contains an explicit and detailed verbal description or narrative account of sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(d) "Sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, video game, or similar visual representation that depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet that contains such a visual representation. An undeveloped photograph, mold, or similar visual material may be sexually explicit material notwithstanding that processing or other acts may be required to make its sexually explicit content apparent.

(e) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2005.

This act is ordered to take immediate effect.
Approved September 12, 2005.
Filed with Secretary of State September 13, 2005.

[No. 105]

(HB 4703)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts

inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by amending the title, as amended by 1991 PA 56, and by adding section 143a.

The People of the State of Michigan enact:

TITLE

An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act.

750.143a Information about rating system; posting sign by video game retailer required; violation; fine; definitions.

Sec. 143a. (1) A video game retailer shall post a sign in a prominent area within the video game retailer's retail establishment that provides information about a rating system or notifies consumers that a rating system is available to aid in the selection of a game and shall make information that explains the video game rating system available to consumers on request.

(2) A video game retailer that violates this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $1,000.00.

(3) As used in this section:

(a) "Rating system" means any video game rating system shown on the exterior packaging of a video game when it is sold or rented.

(b) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

(c) "Video game retailer" means a person that sells or rents video games to the public.

Effective date.

Enacting section 1. This amendatory act is effective December 1, 2005.

This act is ordered to take immediate effect.
Approved September 12, 2005.
Filed with Secretary of State September 13, 2005.

[No. 106]

(SB 170)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal

offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 1a of chapter IV, section 16a of chapter IX, section 22 of chapter XVI, and sections 15g, 16m, and 16s of chapter XVII (MCL 764.1a, 769.16a, 776.22, 777.15g, 777.16m, and 777.16s), section 1a of chapter IV as amended by 1994 PA 70, section 16a of chapter IX as amended by 2004 PA 220, section 22 of chapter XVI as amended by 2001 PA 194, section 15g of chapter XVII as added by 2002 PA 206, section 16m of chapter XVII as amended by 2001 PA 166, and section 16s of chapter XVII as amended by 2004 PA 519.

The People of the State of Michigan enact:

CHAPTER IV

764.1a Complaint; allegations; swearing before magistrate or clerk; finding of reasonable cause; testimony; supplemental affidavits; basis of factual obligations; complaint alleging violation of MCL 750.81 and 750.81a or corresponding ordinance; compliance with MCL 764.1; "dating relationship" defined.

Sec. 1a. (1) A magistrate shall issue a warrant upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint shall be sworn to before a magistrate or clerk.

(2) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(3) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(4) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(5) A warrant may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

(6) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

CHAPTER IX

769.16a Report by clerk of final disposition to department of state police; forms; fingerprints; reporting conviction.

Sec. 16a. (1) Except as otherwise provided in subsection (3), upon final disposition of an original charge against a person of a felony or a misdemeanor for which the maximum possible penalty exceeds 92 days' imprisonment or a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible penalty is 93 days' imprisonment, or a misdemeanor in a case in which the appropriate court was notified that fingerprints were forwarded to the department of state police, or upon final disposition of a charge of criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or final disposition of a charge of criminal contempt for violating a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the clerk of the court entering the disposition shall immediately report to the department of state police the final disposition of the charge on forms approved by the state court administrator and in a manner consistent with section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police shall include the finding of the judge or jury, including a finding of guilty, guilty but mentally ill, not guilty, or not guilty by reason of insanity, or the person's plea of guilty, nolo contendere, or guilty but mentally ill; if the person was convicted, the offense of which the person was convicted; and a summary of any sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. The report shall include the sentence if imposed under any of the following:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(d) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(e) Sections 11 to 15 of chapter II.

(f) Section 4a of chapter IX.

(2) Upon sentencing a person convicted of a misdemeanor or of a violation of a local ordinance, other than a misdemeanor or local ordinance described in subsection (1), the clerk of the court imposing sentence immediately shall, if ordered by the court, advise the department of state police of the conviction on forms approved by the state court administrator.

(3) Except as otherwise provided in subsections (4) and (6), the clerk of a court shall not report a conviction of a misdemeanor offense under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act unless 1 or more of the following apply:

(a) The offense is punishable by imprisonment for more than 92 days.

(b) The offense is an offense that would be punishable by more than 92 days as a second conviction.

(c) A judge of the court orders the clerk to report the conviction.

(4) Unless ordered by the court, the clerk of a court is not required to report a conviction of a misdemeanor offense for a violation of section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(5) As part of the sentence for a conviction of an offense described in this section, if fingerprints have not already been taken, the court shall order that the fingerprints of the person convicted be taken and forwarded to the department of state police.

(6) As part of the sentence for a conviction of a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall order that the fingerprints of the person convicted be taken and forwarded as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, if fingerprints have not already been taken and forwarded as provided in that act.

(7) Within 21 days after the date a person licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance or a felony, the clerk of the court entering the conviction shall report the conviction to the department of consumer and industry services on a form prescribed and furnished by that department.

CHAPTER XVI

776.22 Domestic violence calls; development, implementation, and evaluation of written policies and standards by police agencies; definitions.

Sec. 22. (1) Each police agency in this state shall, by January 1, 1995, develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct.

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development, implementation, including training, and evaluation of the policies and standards.

(3) The policies shall address, but not be limited to addressing, all of the following:

(a) Procedures for conducting a criminal investigation with specific standards for misdemeanor and felony arrests.

(b) Procedures for making a criminal arrest. The procedures shall emphasize all of the following:

(*i*) In most circumstances, an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her actions constitute a crime.

(*ii*) When the officer has probable cause to believe spouses, former spouses, individuals who have had a child in common, individuals who have or have had a dating relationship, or other individuals who reside together or formerly resided together are committing or have committed crimes against each other, the officer, when determining whether to make an arrest of 1 or both individuals, should consider the intent of this section to protect victims of domestic violence, the degree of injury inflicted on the individuals involved, the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household, and any history of domestic violence between the individuals, if that history can reasonably be ascertained by the officer. In addition, the officer should not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self-defense or in lawful defense of another individual.

(*iii*) A police officer's decision as to whether to arrest an individual should not be based solely on the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident.

(*iv*) A police officer's decision not to arrest an individual should not be based solely upon the absence of visible indications of injury or impairment.

(c) Procedures for denial of interim bond, as provided in 1961 PA 44, MCL 780.581 to 780.588.

(d) Procedures for verifying a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(e) Procedures for making an arrest for a violation of a personal protection order.

(f) Procedures for enforcing a valid foreign protection order.

(g) Procedures for providing or arranging for emergency assistance to victims including, but not limited to, medical care, transportation to a shelter, or remaining at the scene of an alleged incident of domestic violence for a reasonable time until, in the reasonable judgment of the police officer, the likelihood of further imminent violence has been eliminated.

(h) Procedures for informing the victim of community services and legal options that are available under section 15c of chapter IV.

(i) Procedures for preparing a written report, whether or not an arrest is made.

(j) Training of peace officers, dispatchers, and supervisors.

(k) Discipline for noncompliance with the policy.

(*l*) Annual evaluations of the policy.

(4) The local policies developed, adopted, and implemented under this section shall be in writing and shall be available to the public upon request.

(5) As used in this section:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(b) "Foreign protection order" means that term as defined in section 2950h of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950h.

(c) "Valid foreign protection order" means a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

CHAPTER XVII

777.15g Chapters 721 to 730 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15g. This chapter applies to the following felonies enumerated in chapters 721 to 730 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
722.633(5)(b)	Person	F	Intentional false report of child abuse constituting a felony	Variable
722.675	Pub ord	E	Distributing obscene matter to children	2
722.857	Person	E	Surrogate parenting contracts involving minors, mentally retarded, etc.	5
722.859(3)	Person	E	Surrogate parenting contracts for compensation	5

777.16m MCL 750.223 to 750.237; felonies to which chapter applicable.

Sec. 16m. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.223(2)	Pub saf	F	Sale of firearm to minor — subsequent offense	4
750.223(3)	Pub ord	D	Sale of firearm to person prohibited from possessing	10
750.224	Pub saf	E	Manufacture or sale of silencer, bomb, blackjack, automatic weapon, gas spray, etc.	5
750.224a	Pub saf	F	Possession or sale of electrical current weapons	4
750.224b	Pub saf	E	Possession of short barreled shotgun or rifle	5
750.224c	Pub saf	F	Armor piercing ammunition	4
750.224d(2)	Person	G	Using self-defense spray device	2
750.224e	Pub saf	F	Manufacture/sale/possession of devices to convert semiautomatic weapons	4
750.224f	Pub saf	E	Possession or sale of firearm by felon	5
750.226	Pub saf	E	Carrying firearm or dangerous weapon with unlawful intent	5
750.227	Pub saf	E	Carrying a concealed weapon	5
750.227a	Pub saf	F	Unlawful possession of pistol	4
750.227c	Pub saf	G	Possessing a loaded firearm in or upon a vehicle	2

750.227f	Pub saf	F	Wearing body armor during commission of certain crimes	4
750.227g(1)	Pub saf	F	Felon purchasing, owning, possessing, or using body armor	4
750.230	Pub saf	G	Altering ID mark on firearm	2
750.232a(3)	Pub saf	G	False statement in a pistol application	4
750.234a	Pub saf	F	Discharging firearm from vehicle	4
750.234b	Pub saf	F	Discharging firearm in or at a building	4
750.234c	Pub saf	F	Discharging firearm at emergency/police vehicle	4
750.236	Person	C	Setting spring gun — death resulting	15
750.237(3)	Person	E	Using firearm while under the influence or impaired causing serious impairment	5
750.237(4)	Person	C	Using firearm while under the influence or impaired causing death	15

777.16s MCL 750.377a to 750.406; felonies to which chapter applicable.

Sec. 16s. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.377a(1)(a)	Property	D	Malicious destruction of personal property involving $20,000 or more or with prior convictions	10
750.377a(1)(b)	Property	E	Malicious destruction of personal property involving $1,000 to $20,000 or with prior convictions	5
750.377b	Property	F	Malicious destruction of fire/police property	4
750.377c	Property	E	School bus — intentional damage	5
750.378	Property	F	Malicious destruction of property — dams/canals/mills	4
750.379	Property	F	Malicious destruction of property — bridges/railroads/locks	4
750.380(2)	Property	D	Malicious destruction of building involving $20,000 or more or with prior convictions	10
750.380(3)	Property	E	Malicious destruction of a building involving $1,000 to $20,000 or with prior convictions	5
750.382(1)(c)	Property	E	Malicious destruction of plants or turf involving $1,000 to $20,000 or with prior convictions	5

750.382(1)(d)	Property	D	Malicious destruction of plants or turf involving $20,000 or more or with prior convictions	10
750.383a	Property	F	Malicious destruction of utility equipment	4
750.386	Property	E	Malicious destruction of mine property	20
750.387(5)	Property	E	Malicious destruction of a tomb or memorial involving $1,000 to $20,000 or with prior convictions	5
750.387(6)	Property	D	Malicious destruction of a tomb or memorial involving $20,000 or more or with prior convictions	10
750.392	Property	E	Malicious destruction of property — vessels	10
750.394(2)(c)	Person	F	Throwing or dropping dangerous object at vehicle causing injury	4
750.394(2)(d)	Person	D	Throwing or dropping dangerous object at vehicle causing serious impairment	10
750.394(2)(e)	Person	C	Throwing or dropping dangerous object at vehicle causing death	15
750.395(2)(c)	Property	E	Damaging or destroying research property with a value between $1,000 and $20,000 or with prior convictions	5
750.395(2)(d)	Property	E	Damaging or destroying research property with a value of $20,000 or more or 2 or more prior convictions	5
750.395(2)(e)	Person	E	Damaging or destroying research property resulting in physical injury	5
750.395(2)(f)	Person	D	Damaging or destroying research property resulting in serious impairment of body function	10
750.395(2)(g)	Person	C	Damaging or destroying research property resulting in death	15
750.397	Person	D	Mayhem	10
750.397a	Person	D	Placing harmful objects in food	10
750.405	Pub saf	E	Inciting soldiers to desert	5
750.406	Pub saf	E	Military stores — larceny, embezzlement or destruction	5

This act is ordered to take immediate effect.
Approved September 14, 2005.
Filed with Secretary of State September 14, 2005.

[No. 107]

(SB 463)

AN ACT to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.673), as amended by 2003 PA 192.

The People of the State of Michigan enact:

722.673 Definitions.

Sec. 3. As used in this part:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) "Sexually explicit matter" means sexually explicit visual material, sexually explicit verbal material, or sexually explicit performance.

(g) "Sexually explicit performance" means a motion picture, video game, exhibition, show, representation, or other presentation that, in whole or in part, depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(h) "Sexually explicit verbal material" means a book, pamphlet, magazine, printed matter reproduced in any manner, or sound recording that contains an explicit and detailed verbal description or narrative account of sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse.

(i) "Sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film, video game, or similar visual representation that depicts nudity, sexual excitement, erotic fondling, sexual intercourse, or sadomasochistic abuse, or a book, magazine, or pamphlet that contains such a visual representation. An undeveloped photograph, mold, or similar visual material may be sexually explicit material notwithstanding

that processing or other acts may be required to make its sexually explicit content apparent.

(j) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 416.

(b) House Bill No. 4702.

(c) House Bill No. 4703.

This act is ordered to take immediate effect.
Approved September 14, 2005.
Filed with Secretary of State September 14, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 416 was filed with the Secretary of State September 14, 2005, and became 2005 PA 108, Eff. Dec. 1, 2005.
House Bill No. 4702 was filed with the Secretary of State September 13, 2005, and became 2005 PA 104, Eff. Dec. 1, 2005.
House Bill No. 4703 was filed with the Secretary of State September 13, 2005, and became 2005 PA 105, Eff. Dec. 1, 2005.

[No. 108]

(SB 416)

AN ACT to amend 1978 PA 33, entitled "An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, and 4 (MCL 722.671, 722.672, and 722.674), section 1 as amended by 2003 PA 192, and by adding section 12a, part II, and a heading for part I.

The People of the State of Michigan enact:

TITLE

An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter and ultra-violent explicit video games to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter and ultra-violent explicit video games to minors; to provide penalties and sanctions; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal acts and parts of acts.

PART I

SEXUALLY EXPLICIT MATTER

722.671 Definitions generally.

Sec. 1. As used in this part:

(a) "Display" means to put or set out to view or to make visible.

(b) "Disseminate" means to sell, lend, give, exhibit, show, or allow to examine or to offer or agree to do the same.

(c) "Exhibit" means to do 1 or more of the following:

(*i*) Present a performance.

(*ii*) Sell, give, or offer to agree to sell or give a ticket to a performance.

(*iii*) Admit a minor to premises where a performance is being presented or is about to be presented.

(d) "Minor" means a person less than 18 years of age.

(e) "Restricted area" means any of the following:

(*i*) An area where sexually explicit matter is displayed only in a manner that prevents public view of the lower 2/3 of the matter's cover or exterior.

(*ii*) A building, or a distinct and enclosed area or room within a building, if access by minors is prohibited, notice of the prohibition is prominently displayed, and access is monitored to prevent minors from entering.

(*iii*) An area with at least 75% of its perimeter surrounded by walls or solid, nontransparent dividers that are sufficiently high to prevent a minor in a nonrestricted area from viewing sexually explicit matter within the perimeter if the point of access provides prominent notice that access to minors is prohibited.

722.672 Additional definitions.

Sec. 2. As used in this part:

(a) "Nudity" means the lewd display of the human male or female genitals or pubic area.

(b) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(c) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, for the purpose of sexual gratification or stimulation.

(d) "Sadomasochistic abuse" means either of the following:

(*i*) Flagellation, or torture, for sexual stimulation or gratification, by or upon a person who is nude or clad only in undergarments or in a revealing or bizarre costume.

(*ii*) The condition of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification, of a person who is nude or clad only in undergarments or in a revealing or bizarre costume.

(e) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal.

722.674 Additional definitions.

Sec. 4. As used in this part:

(a) "Harmful to minors" means sexually explicit matter that meets all of the following criteria:

(*i*) Considered as a whole, it appeals to the prurient interest of minors as determined by contemporary local community standards.

(*ii*) It is patently offensive to contemporary local community standards of adults as to what is suitable for minors.

(*iii*) Considered as a whole, it lacks serious literary, artistic, political, educational, and scientific value for minors.

(b) "Local community" means the county in which the matter was disseminated.

(c) "Prurient interest" means a lustful interest in sexual stimulation or gratification. In determining whether sexually explicit matter appeals to the prurient interest, the matter shall be judged with reference to average 17-year-old minors. If it appears from the character of the matter that it is designed to appeal to the prurient interest of a particular group of persons, including, but not limited to, homosexuals or sadomasochists, then the matter shall be judged with reference to average 17-year-old minors within the particular group for which it appears to be designed.

722.682a Exceptions.

Sec. 12a. This part does not apply to any of the following:

(a) A medium of communication to the extent regulated by the federal communications commission.

(b) An internet service provider or computer network service provider that is not selling the sexually explicit matter being communicated but that provides the medium for communication of the matter. As used in this section, "internet service provider" means a person who provides a service that enables users to access content, information, electronic mail, or other services offered over the internet or a computer network.

(c) A person providing a subscription multichannel video service under terms of service that require the subscriber to meet both of the following conditions:

(*i*) The subscriber is not less than 18 years of age at the time of the subscription.

(*ii*) The subscriber proves that he or she is not less than 18 years of age through the use of a credit card, through the presentation of government-issued identification, or by other reasonable means of verifying the subscriber's age.

PART II

ULTRA-VIOLENT EXPLICIT VIDEO GAMES

722.685 Legislative findings.

Sec. 15. In light of section 51 of article IV of the state constitution of 1963, which directs that "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.", and after hearing from expert witnesses and law enforcement officials, considering the testimony of expert witnesses before other legislative bodies, and reviewing dozens of studies and metastudies of hundreds of studies, the legislature finds all of the following:

(a) Published research overwhelmingly finds that ultra-violent explicit video games are harmful to minors because minors who play ultra-violent explicit video games are consistently more likely to exhibit violent, asocial, or aggressive behavior and have feelings of aggression.

(b) Spokespersons for not less than 6 major national health associations have concluded and testified that after reviewing more than 1,000 studies, the studies "point overwhelmingly to a causal connection between media violence and aggressive behavior in some children", concluding that the effects of media violence on minors "are measurable and long-lasting".

(c) Law enforcement officers testified that recent statewide targeted enforcement efforts reveal that minors are capable of purchasing, and do purchase, ultra-violent explicit video games.

(d) Law enforcement officers testified about cases of minors acting out ultra-violent explicit video game behaviors by victimizing other citizens.

(e) The state has a legitimate and compelling interest in safeguarding both the physical and psychological well-being of minors.

(f) The state has a legitimate and compelling interest in preventing violent, aggressive, and asocial behavior from manifesting itself in minors.

(g) The state has a legitimate and compelling interest in directly and substantially alleviating the real-life harms perpetrated by minors who play ultra-violent explicit video games.

722.686 Definitions.

Sec. 16. As used in this part:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(f) "Disseminate" means to sell, lend, give, exhibit, show, or allow to examine or to offer or agree to do the same.

(g) "Extreme and loathsome violence" means real or simulated graphic depictions of physical injuries or physical violence against parties who realistically appear to be human beings, including actions causing death, inflicting cruelty, dismemberment, decapitation, maiming, disfigurement, or other mutilation of body parts, murder, criminal sexual conduct, or torture.

(h) "Harmful to minors" means having all of the following characteristics:

(*i*) Considered as a whole, appeals to the morbid interest in asocial, aggressive behavior of minors as determined by contemporary local community standards.

(*ii*) Is patently offensive to contemporary local community standards of adults as to what is suitable for minors.

(*iii*) Considered as a whole, lacks serious literary, artistic, political, educational, or scientific value for minors.

(i) "Local community" means the county in which the video game was disseminated.

(j) "Minor" means a person less than 17 years of age.

(k) "Morbid interest in asocial, aggressive behavior" means a morbid interest in committing uncontrolled aggression against an individual. In determining whether an ultra-violent explicit video game appeals to this interest, the video game shall be judged with reference to average 16-year-old minors. If it appears from the character of the video game that it is designed to appeal to this interest of a particular group of persons, then the video game shall be judged with reference to average 16-year-old minors within the particular group for which it appears to be designed.

(*l*) "Ultra-violent explicit video game" means a video game that continually and repetitively depicts extreme and loathsome violence.

(m) "Video game" means an object or device that stores recorded data or instructions generated by a person who uses it, and by processing the data or instructions creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, game console, or other technology.

722.687 Dissemination of ultra-violent explicit video game to minor; prohibition; violation; penalties.

Sec. 17. (1) A person shall not knowingly disseminate to a minor an ultra-violent explicit video game that is harmful to minors. Except as provided in subsections (2) and (3), a person who violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $5,000.00.

(2) A person who violates subsection (1) and who has 1 prior determination of responsibility under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $15,000.00.

(3) A person who violates subsection (1) and who has 2 or more prior determinations of responsibility under this section is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $40,000.00. In imposing a fine under this subsection, the court shall consider the scope of the defendant's commercial activity in disseminating ultra-violent explicit video games to minors.

722.688 Exceptions.

Sec. 18. Section 17 does not apply to the dissemination of an ultra-violent explicit video game to a minor by any of the following:

(a) A parent or guardian who disseminates an ultra-violent explicit video game to his or her child or ward.

(b) An immediate family member of the minor who disseminates an ultra-violent explicit video game to the minor in the immediate family member's residence or the minor's residence.

(c) An individual who disseminates an ultra-violent video game to a minor who is a guest in the individual's residence.

(d) An individual who disseminates an ultra-violent explicit video game for a legitimate medical, scientific, governmental, or judicial purpose.

722.689 False representation as to age or status as parent or guardian; violation; penalty.

Sec. 19. (1) A person shall not knowingly make a false representation that he or she is the parent or guardian of a minor, or that a minor is 17 years of age or older, with the intent to facilitate the dissemination to the minor of an ultra-violent explicit video game that is harmful to minors. A person knowingly makes a false representation as to the age of a minor or as to the status of being the parent or guardian of a minor if the person either is aware that the representation is false or recklessly disregards a substantial risk that the representation is false.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $15,000.00, or both.

722.690 Manager of business enterprise renting or selling ultra-violent explicit video games; permitting minor to play or view prohibited; violation; penalty.

Sec. 20. A person who possesses managerial responsibility for a business enterprise renting or selling ultra-violent explicit video games that are harmful to minors shall not knowingly permit a minor who is not accompanied by a parent or guardian to play or view the playing of an ultra-violent explicit video game that is harmful to minors. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $25,000.00, or both.

722.691 Knowingly disseminating ultra-violent explicit video game.

Sec. 21. (1) A person knowingly disseminates an ultra-violent explicit video game to a minor if the person knows both the nature of the video game and the status of the minor to whom the video game is disseminated.

(2) A person knows the nature of the ultra-violent explicit video game if the person either is aware of its character and content or recklessly disregards circumstances suggesting its character and content.

(3) A person knows the status of a minor if the person either is aware that the person to whom the dissemination is made is a minor or recklessly disregards a substantial risk that the person to whom the dissemination is made is a minor.

722.692 Violation arising from same transaction.

Sec. 22. A conviction, sentence, or determination of responsibility for a violation of this part does not preclude a conviction, sentence, or determination of responsibility for a violation of any other law of this state arising from the same transaction.

722.693 Good faith as defense.

Sec. 23. (1) It is an affirmative defense to an alleged violation under this part that the person acted in good faith. Except as provided in subsection (2), good faith exists if at the time the alleged violation occurs all of the following conditions are satisfied:

(a) The minor shows the person identification that appears to be valid and that contains a photograph and a date of birth purporting to show that the minor is 17 years of age or older, or the service terms of the internet provider of a seller or rental enterprise that sells or rents ultra-violent explicit video games over the internet require a purchaser or renter to be 17 years of age or older if all of the following conditions are met:

(*i*) The ultra-violent explicit video game is purchased or rented over the internet.

(*ii*) The ultra-violent explicit video game is sent to the purchaser's or renter's home or place of residence or otherwise made directly available through the internet to the purchaser or renter.

(*iii*) The purchaser or renter of the ultra-violent explicit video game uses a credit card to purchase or rent the ultra-violent explicit video game.

(b) The person does not have independent knowledge that the minor is under 17 years of age.

(c) Relying upon information described in subdivisions (a) and (b), the person complies with a rating system established by the pertinent entertainment industry that does not conflict with this part.

(2) If the person possesses managerial responsibility for a business enterprise, good faith exists if at the time the alleged violation occurs the business enterprise satisfies all of the following conditions:

(a) The business enterprise has in existence a policy that its employees are required to comply with a rating system established by the pertinent entertainment industry that does not conflict with this part.

(b) The business enterprise trains its employees to follow the policy described in subdivision (a).

(c) The business enterprise enforces the policy described in subdivision (a).

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 463.

(b) House Bill No. 4702.

(c) House Bill No. 4703.

This act is ordered to take immediate effect.
Approved September 14, 2005.
Filed with Secretary of State September 14, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 463 was filed with the Secretary of State September 14, 2005, and became 2005 PA 107, Eff. Dec. 1, 2005.
House Bill No. 4702 was filed with the Secretary of State September 13, 2005, and became 2005 PA 104, Eff. Dec. 1, 2005.
House Bill No. 4703 was filed with the Secretary of State September 13, 2005, and became 2005 PA 105, Eff. Dec. 1, 2005.

[No. 109]

(HB 4436)

AN ACT to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2005; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; various state agencies and departments; supplemental for year ending September 30, 2005.

Sec. 101. There is appropriated for the various state departments and agencies to supplement appropriations for the fiscal year ending September 30, 2005, from the following funds:

APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	249,976,000
Total interdepartmental grants and intradepartmental transfers		2,834,600
ADJUSTED GROSS APPROPRIATION	$	247,141,400
Total federal revenues		174,873,600
Total local revenues		(1,400,000)
Total private revenues		6,322,700
Total other state restricted revenues		10,002,100
State general fund/general purpose	$	57,343,000

Department of agriculture.

Sec. 102. DEPARTMENT OF AGRICULTURE

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	500,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	500,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		500,000
State general fund/general purpose	$	0
(2) PESTICIDE AND PLANT PEST MANAGEMENT		
Pesticide and plant pest management	$	500,000
GROSS APPROPRIATION	$	500,000
Appropriated from:		
Special revenue funds:		
Licensing and inspection fees		500,000
State general fund/general purpose	$	0

Capital outlay.

Sec. 103. CAPITAL OUTLAY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	700,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	700,000
Total federal revenues		500,000
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		200,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2005
(2) DEPARTMENT OF MILITARY AND VETERANS AFFAIRS		
Shiawassee county, armory replacement, for design and construction (total authorized cost $5,700,000; federal share $4,250,000; state armory construction fund share $1,450,000)	$	700,000
GROSS APPROPRIATION	$	700,000
Appropriated from:		
Federal revenues:		
DOD - department of the army - national guard bureau		500,000
Special revenue funds:		
Armory construction fund		200,000
State general fund/general purpose	$	0

Department of community health.

Sec. 104. DEPARTMENT OF COMMUNITY HEALTH		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	154,399,800
Total interdepartmental grants and intradepartmental transfers		142,100
ADJUSTED GROSS APPROPRIATION	$	154,257,700
Total federal revenues		99,024,700
Total local revenues		(1,400,000)
Total private revenues		5,322,700
Total other state restricted revenues		(3,394,100)
State general fund/general purpose	$	54,704,400
(2) STATE PSYCHIATRIC HOSPITALS, CENTERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, AND FORENSIC AND PRISON MENTAL HEALTH SERVICES		
Mount Pleasant center - development disabilities	$	1,600,000
Caro regional mental health center - psychiatric hospital - adult		500,000
Kalamazoo psychiatric hospital - adult		900,000
Gifts and bequests for patient living and treatment environment		400,000
GROSS APPROPRIATION	$	3,400,000
Appropriated from:		
Federal revenues:		
Total federal revenues		1,700,000
Special revenue funds:		
Other local revenues		400,000
Total private revenues		400,000
Total other state restricted revenues		900,000
State general fund/general purpose	$	0
(3) INFECTIOUS DISEASE CONTROL		
Aids prevention, testing, and care programs	$	4,200,000
GROSS APPROPRIATION	$	4,200,000
Appropriated from:		
Special revenue funds:		
Total private revenues		4,200,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2005
(4) LABORATORY SERVICES		
Laboratory services	$	848,000
GROSS APPROPRIATION	$	848,000
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from environmental quality		142,100
Special revenue funds:		
Total other state restricted revenues		705,900
State general fund/general purpose	$	0
(5) EPIDEMIOLOGY		
Epidemiology administration	$	76,200
GROSS APPROPRIATION	$	76,200
Appropriated from:		
Special revenue funds:		
Total private revenues		76,200
State general fund/general purpose	$	0
(6) CHRONIC DISEASE AND INJURY PREVENTION AND HEALTH PROMOTION		
Smoking prevention program	$	114,000
GROSS APPROPRIATION	$	114,000
Appropriated from:		
Special revenue funds:		
Total private revenues		114,000
State general fund/general purpose	$	0
(7) WOMEN, INFANTS, AND CHILDREN FOOD AND NUTRITION PROGRAM		
Women, infants, and children program local agreements and food costs	$	457,500
GROSS APPROPRIATION	$	457,500
Appropriated from:		
Special revenue funds:		
Total private revenues		457,500
State general fund/general purpose	$	0
(8) OFFICE OF SERVICES TO THE AGING		
Office of services to the aging administration	$	75,000
GROSS APPROPRIATION	$	75,000
Appropriated from:		
Special revenue funds:		
Total private revenues		75,000
State general fund/general purpose	$	0
(9) MEDICAL SERVICES ADMINISTRATION		
Medical services administration	$	3,800,000
GROSS APPROPRIATION	$	3,800,000
Appropriated from:		
Federal revenues:		
Total federal revenues		3,800,000
Special revenue funds:		
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2005
(10) CHILDREN'S SPECIAL HEALTH CARE SERVICES		
Medical care and treatment	$	(20,559,800)
GROSS APPROPRIATION	$	(20,559,800)
Appropriated from:		
Federal revenues:		
Total federal revenues		(3,120,600)
Special revenue funds:		
State general fund/general purpose	$	(17,439,200)
(11) MEDICAL SERVICES		
Maternal and child health	$	11,045,000
Hospital services and therapy		(85,620,900)
Physician services		20,707,200
Medicare premium payments		(5,705,600)
Pharmaceutical services		35,845,100
Home health services		(7,891,200)
Ambulance services		359,400
Long-term care services		110,948,000
Health plan services		70,751,900
Medical expenses recoupment		11,550,000
Subtotal basic medical services program		161,988,900
GROSS APPROPRIATION	$	161,988,900
Appropriated from:		
Federal revenues:		
Total federal revenues		96,645,300
Special revenue funds:		
Total local revenues		(1,800,000)
Merit award trust fund		(5,100,000)
Tobacco settlement revenue		(1,900,000)
Total other state restricted revenues		2,000,000
State general fund/general purpose	$	72,143,600

Department of education.

Sec. 105. DEPARTMENT OF EDUCATION

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	1,000,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,000,000
Total federal revenues		0
Total local revenues		0
Total private revenues		1,000,000
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) SCHOOL IMPROVEMENT SERVICES		
School improvement operations	$	1,000,000
GROSS APPROPRIATION	$	1,000,000
Appropriated from:		
Special revenue funds:		
Private revenues		1,000,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2005
Department of environmental quality.		
Sec. 106. DEPARTMENT OF ENVIRONMENTAL QUALITY		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	9,124,700
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	9,124,700
Total federal revenues		1,210,700
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		7,918,800
State general fund/general purpose	$	(4,800)
(2) EXECUTIVE		
Office of the Great Lakes		
Salaries and fringe benefits	$	3,300
Travel		200
Other operational expenses		(1,900)
GROSS APPROPRIATION	$	1,600
Appropriated from:		
Federal revenues:		
DOC-NOAA		3,200
Special revenue funds:		
Great Lakes protection fund		3,200
State general fund/general purpose	$	(4,800)
(3) ENVIRONMENTAL SCIENCE AND SERVICES		
Environmental bond site reclamation	$	715,600
Nonpoint source pollution prevention and control project program		7,000,000
Laboratory services		
Other operational expenses		200,000
GROSS APPROPRIATION	$	7,915,600
Appropriated from:		
Special revenue funds:		
Environmental protection bond fund		715,600
Clean Michigan initiative - nonpoint source		7,000,000
Water analysis fees		200,000
State general fund/general purpose	$	0
(4) GEOLOGICAL AND LAND MANAGEMENT		
Field permitting and project assistance		
Salaries and fringe benefits	$	75,000
GROSS APPROPRIATION	$	75,000
Appropriated from:		
Federal revenues:		
EPA, multiple		75,000
Special revenue funds:		
State general fund/general purpose	$	0
(5) WATER		
Surface water		
Salaries and fringe benefits	$	200,000
Other operational expenses		172,500
GROSS APPROPRIATION	$	372,500

		For Fiscal Year Ending Sept. 30, 2005
Appropriated from:		
Federal revenues:		
EPA, multiple	$	372,500
Special revenue funds:		
State general fund/general purpose	$	0
(6) CRIMINAL INVESTIGATIONS		
Environmental investigations		
Other operational expenses	$	760,000
GROSS APPROPRIATION	$	760,000
Appropriated from:		
Federal revenues:		
DHS, federal		760,000
Special revenue funds:		
State general fund/general purpose	$	0

Department of human services.

Sec. 107. DEPARTMENT OF HUMAN SERVICES		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	32,368,600
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	32,368,600
Total federal revenues		32,368,600
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) FAMILY INDEPENDENCE SERVICES ADMINISTRATION		
Nutrition education	$	1,120,300
GROSS APPROPRIATION	$	1,120,300
Appropriated from:		
Federal revenues:		
Total federal revenues		1,120,300
Special revenue funds:		
State general fund/general purpose	$	0
(3) LOCAL OFFICE STAFF AND OPERATIONS		
Field staff, salaries and wages	$	5,500,000
GROSS APPROPRIATION	$	5,500,000
Appropriated from:		
Federal revenues:		
Total federal revenues		5,500,000
Special revenue funds:		
State general fund/general purpose	$	0
(4) PUBLIC ASSISTANCE		
Family independence program	$	7,635,500
Weatherization assistance		1,598,100

		For Fiscal Year Ending Sept. 30, 2005
Food assistance program benefits	$	14,014,700
GROSS APPROPRIATION	$	23,248,300
Appropriated from:		
Federal revenues:		
Total federal revenues		23,248,300
Special revenue funds:		
State general fund/general purpose	$	0
(5) CENTRAL SUPPORT ACCOUNTS		
Payroll taxes and fringe benefits	$	2,500,000
GROSS APPROPRIATION	$	2,500,000
Appropriated from:		
Federal revenues:		
Total federal revenues		2,500,000
Special revenue funds:		
State general fund/general purpose	$	0

Department of information technology.

Sec. 108. DEPARTMENT OF INFORMATION TECHNOLOGY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,692,500
Total interdepartmental grants and intradepartmental transfers		2,692,500
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) ADMINISTRATION		
Health and human services	$	2,000,000
Resources services		692,500
GROSS APPROPRIATION	$	2,692,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG from department of agriculture		692,500
IDG from department of human services		2,000,000
Special revenue funds:		
State general fund/general purpose	$	0

Judiciary.

Sec. 109. JUDICIARY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,220,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,220,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0

		For Fiscal Year Ending Sept. 30, 2005
Total other state restricted revenues	$	2,220,000
State general fund/general purpose		0
(2) SUPREME COURT		
State court administrative office	$	20,000
Drug treatment courts		100,000
GROSS APPROPRIATION	$	120,000
Appropriated from:		
Special revenue funds:		
State court fund		20,000
Drug court fund		100,000
State general fund/general purpose	$	0
(3) INDIGENT CIVIL LEGAL ASSISTANCE		
Indigent civil legal assistance	$	600,000
GROSS APPROPRIATION	$	600,000
Appropriated from:		
Special revenue funds:		
State court fund		600,000
State general fund/general purpose	$	0
(4) TRIAL COURT OPERATIONS		
Court equity fund reimbursements	$	1,500,000
GROSS APPROPRIATION	$	1,500,000
Appropriated from:		
Special revenue funds:		
Court equity fund		1,500,000
State general fund/general purpose	$	0

Department of management and budget.

Sec. 110. DEPARTMENT OF MANAGEMENT AND BUDGET

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	587,400
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	587,400
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		587,400
State general fund/general purpose	$	0
(2) STATE FAIR		
Michigan state fair operations	$	587,400
GROSS APPROPRIATION	$	587,400
Appropriated from:		
Special revenue funds:		
State exposition and fair grounds fund		587,400
State general fund/general purpose	$	0